

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

To:

Commissioner
 US Department of Commerce
 United States Patent and Trademark
 Office, PCT
 2011 South Clark Place Room
 CP2/5C24
 Arlington, VA 22202
 ETATS-UNIS D'AMERIQUE
 in its capacity as elected Office

Date of mailing (day/month/year) 29 May 2001 (29.05.01)	
International application No. PCT/US00/27338	Applicant's or agent's file reference CM2204M/JB
International filing date (day/month/year) 04 October 2000 (04.10.00)	Priority date (day/month/year) 05 October 1999 (05.10.99)
Applicant CORRAND, Didier, Marcel et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:

05 February 2001 (05.02.01)

☐ in a notice effecting later election filed with the International Bureau on:
2. The election ☒ was
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Olivia TEFY Telephone No.: (41-22) 338.83.38
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INTERNATIONAL SEARCH REPORT

Inter. Application No

PCT/US 00/27338

A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61K9/20 C08J9/30 C08J9/28 C09D5/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K C08J C09D

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, PAJ

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 5 458 884 A (BRITTON PETER ET AL) 17 October 1995 (1995-10-17) column 7, line 2-5 example 1 column 5, line 60 -column 6, line 3 claims ---	1,2,4-6, 8-12, 14-16, 18-24
X	GB 1 084 301 A (TAK CHEMICALS LTD) 20 September 1967 (1967-09-20) column 2, line 10-53 claims --- -/--	1,2,6, 10-13

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents :

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- *G* document member of the same patent family

Date of the actual completion of the international search

1 December 2000

Date of mailing of the international search report

15/12/2000

Name and mailing address of the ISA

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Authorized officer

Oudot, R

INTERNATIONAL SEARCH REPORT

Inter. Appl. No.

PCT/US 00/27338

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	<p>PATENT ABSTRACTS OF JAPAN vol. 018, no. 361 (C-1222), 7 July 1994 (1994-07-07) & JP 06 093124 A (TOPPAN PRINTING CO LTD), 5 April 1994 (1994-04-05) abstract</p> <p>-----</p>	1,2,4

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 00/27338

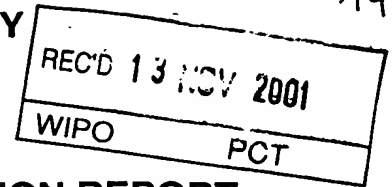
Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 5458884 A	17-10-1995	CA 2105887 A	11-03-1994
		EP 0643963 A	22-03-1995
		NO 933239 A	04-05-1994
		NZ 299162 A	27-05-1998
		US 5650192 A	22-07-1997
		US 5891458 A	06-04-1999
		ZA 9306711 A	10-03-1995
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GB 1084301 A		NONE	
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JP 06093124 A	05-04-1994	NONE	
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference CM2204M/JB		FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US00/27338	International filing date (day/month/year) 04/10/2000	Priority date (day/month/year) 05/10/1999	
International Patent Classification (IPC) or national classification and IPC A61K9/20			
Applicant THE PROCTER AND GAMBLE COMPANY et al.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input checked="" type="checkbox"/> Certain defects in the international application VIII <input checked="" type="checkbox"/> Certain observations on the international application 			
Date of submission of the demand 05/02/2001		Date of completion of this report 09.11.2001	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized officer Smeets, D Telephone No. +49 89 2399 7492 	

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/US00/27338

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, pages:

1-27 as originally filed

Claims, No.:

1-24 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

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(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	3, 7, 17
	No:	Claims	1,2,4-6,8-16,18-24
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-24
Industrial applicability (IA)	Yes:	Claims	1-24
	No:	Claims	

2. Citations and explanations
see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:
see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:
see separate sheet

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EXAMINATION REPORT - SEPARATE SHEET**

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Re l t m V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

- D1: US-A-5 458 884 (BRITTON PETER ET AL) 17 October 1995 (1995-10-17)
- D2: GB-A-1 084 301 (TAK CHEMICALS LTD) 20 September 1967 (1967-09-20)
- D3: PATENT ABSTRACTS OF JAPAN vol. 018, no. 361 (C-1222), 7 July 1994 (1994-07-07) & JP 06 093124 A (TOPPAN PRINTING CO LTD), 5 April 1994 (1994-04-05)

1. Novelty - Article 33(1) and (2) PCT

The subject-matter of claims 1, 2, 4-6, 8-16, 18-24 is not new in view of D1. Said document (claims; example 1; column 4, lines 5-7; column 5, line 60 - column 6, line 3; column 7, lines 2-5) discloses a coating for a composition, comprising a foam component; having a matrix comprising a polymeric material. This device provides the controlled release of an active ingredient incorporated therein. Example 1 describes the preparation of a foamed delivery device containing histrelin.

D2 (claims) also anticipates the subject-matter of claims 1, 2, 6, 10-14. Said document discloses a composition comprising a water-soluble film-forming substance such as gelatine or starch. This film is converted into a solid foam.

D3 anticipates the subject-matter of claims 1, 2 and 4. Said document discloses a foamed coating, obtained by introducing gas in a polymeric material.

2. Inventive Step - Article 33(1) and (3) PCT

The problem underlying the present application is providing an alternative foam coating for administering a composition to an aqueous environment. The foam should be stable upon contact with air and unstable in water.

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International application No. PCT/US00/27338

D1 provides the solution and anticipates the subject-matter of the independent claims 1, 12-14 and 18-24 (see paragraph V 1).

The features of the dependent claims 3, 7 and 17 do not contain features which contribute to the solution of the objective technical problem.

Consequently, the subject-matter of claims 1-24 is not considered to involve an inventive step.

Re Item VII

Certain defects in the international application

1. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1-D3 is not mentioned in the description, nor are these documents identified therein.

Re Item VIII

Certain observations on the international application

1. Claim 1 does not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claim attempts to define the subject-matter in terms of the result to be achieved, i.e. a coating, stable upon contact with air and unstable in water, which merely amounts to a statement of the underlying problem. The technical features necessary for achieving this result are lacking.
2. Although product claims 12-14, process claims 18-21 and 22-24 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness. Moreover, lack of clarity of the claims as a whole arises, since the plurality of independent claims makes it difficult, to determine the matter for which protection is sought, and places an undue burden on

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others seeking to establish the extent of the protection.

Hence, product claims 12-14, process claims 18-21 and use claims 22-24 do not meet the requirements of Article 6 PCT.

3. Features following expressions, like "preferably" and "optionally", used in claims 1, 3-5, 7, 10, 12, 14, 18, 19, 21-24, have no limiting effect on the scope of said claims; that is to say, the feature following any such expression is regarded as entirely optional (PCT Guidelines III-4.6).
4. The additional features of claims 3 and 7 characterize the composition solely by its parameters. This is not allowed (PCT Guidelines (III.4.7a)).
5. Claim 20 refers to process claims 17 and 18. This must be process claims 18 and 19.